

*claim 3 depends from.*” Applicant respectfully submits that claim 3 is fully supported in the specification.

Applicant respectfully directs the Examiner to the following relevant portions of the specification:

“With the foregoing and other objects in view, this invention in one aspect resides broadly in step apparatus including: **a mounting portion** adapted to engage a vehicle in the region of the towing hitch; and a step portion supported on said mounting portion. **The mounting portion may take any suitable form dictated by the towing hitch and its environs on the vehicle.** Preferably, the mounting portion is secured to the vehicle by the hitch assembly or portion thereof, or by the step apparatus may be affixed to existing vehicles. Alternatively, the mounting portion may be formed integrally with the vehicle or hitch assembly. **The mounting portion may comprise a metal or reinforced plastic mounting member or complimentary section to the tubular box section.** Hayman Recce hitch mount provided on heavier utilities and four-wheel drive vehicles, as well as some sedans. Alternatively, the mounting portion may comprise a body member having a threaded stud adapted to engage the hitch ball aperture in conventional gooseneck. In yet further embodiment the invention, the mounting means may comprise a body member adapted to engage the hitch ball of the towing hitch.” (Page 1, line 20 to Page 2, line 14)(emphasis added).

“The **step portion** may be mounted to the **mounting portion** in a manner permitting the step to be moved from an in-use position to a stowed position. For example, the step portion may be hinged to the mounting portion whereby the step portion may be moved from an in use position where the step is disposed above the vehicle hitch to a stowed position whereby the hitch may be undone.” (Page 4, lines 4-10)(emphasis added).

A person of ordinary skill in the art to would recognize from this written description, that a mounting portion may comprise a body member adapted to engage a tubular socket of receiver-type towing hitch. In addition, a step portion may be mounted to the mounting

portion (e.g., a tubular socket member adapted to engage a tubular socket) in a manner permitting the step to be moved from an in-use position to a stowed position. For at least the foregoing reasons the disclosure of the application as originally filed sufficiently supports the claimed subject matter.

Regarding claim 34, Applicant respectfully requests the Examiner to reconsider for the same reasons as applied above. In the alternative, Applicant requests the Examiner to clarify this rejection.

Regarding claims 36 and 37, the Examiner states "The only locking mechanism disclosed has nothing to do with the folding step recited in claim 1." Applicant respectfully directs the Examiner to page 7 of the specification, which recites:

"The embodiments of Figure 5 and 6 are particularly suitable for providing a **lockable arrangement** whereby the step assembly 67 when locked in its deployed position serves to prevent the hitching or unhitching of towed vehicles. For example, Lugs 73 may be configured to extend along the inner surface of one or more of the support lugs 66, whereby a drilling through adjacent lugs 73 and support lug 66 may provide passage for locking bolt or pad lock which retains the step assembly 67 **in its deployed position.**" (emphasis added)

One of ordinary skill in the art would recognize there is support in the written description as originally filed for the subject matter of claims 36 and 37. Specifically, referring to the disclosure above and Figures 5 and 6, a skilled artisan would recognize that the locking mechanism is associated with a folding step, as recited in claim 1. Figure 5, explicitly shows a step that is hinged and can be folded. Accordingly, Applicant submits that the claims are in full compliance with 35 U.S.C. § 112, first paragraph.

The Examiner rejected claim 3 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicant regards as the invention. Applicant, respectfully traverses this rejection for at least the following reasons.

The Examiner states that in the “receiver-type” towing hitch, the word “type” renders the claim indefinite and makes the claim unclear. Applicant respectfully directs the Examiner to the specification regarding, for example, Figures 1-6, all of which disclose a “receiver-type” towing hitch. The disclosure and the foregoing figures, reasonably apprise those skilled in the art as to the scope of the claims. Accordingly, Applicant submits that claim 3 is in full compliance with 35 U.S.C. § 112, second paragraph.

The Examiner rejected claims 1, 34 and 36-37 under 35 U.S.C. §102(e) as being anticipated by (USP 5,584,495) Mason. Applicant respectfully asserts that a *prima facie* case of anticipation has not been met.

Independent claim 1 is allowable over Mason (U.S. Pat. No. 5,584,495) in that claim 1 recites a combination of elements including, for example, “[A] step portion hinged to the mounting portion whereby the step portion may be moved from a first portion where the step portion is disposed above the vehicle hitch and useable with or without the hitch being in use, to a second, stowed portion.” The examiner alleges that “Mason shows, Figure 2, a trailer hitch locking assembly with an upper receiver 26 (step, step portion) which has a first and second positions as it is pivotally secured (hinged) to the mounting plate 12. There is a mounting aperture 14 which allows the assembly to be secured to the vehicle. The closed position does not allow the hitch to leave or enter the assembly once locked.”

However, Mason does not teach or suggest a step portion as claimed in claim 1. Even if it is assumed *arguendo* that the upper receiver 26 is understood by the Examiner as a step portion, Mason is still inadequate as it does not teach or suggest the step portion in a first

position above the vehicle hitch and a second stowed position. In addition, Mason does not teach or disclose a step portion that can be used with or without a hitch being in use. For at least the foregoing reasons, the Examiner has not established a *prima facie* case of anticipation because the reference does not describe each and every element as set forth in claim 1. Accordingly, Applicant respectfully submits that claim 1 and dependent claims 3 and 34, and 36-37 which depend from claim 1, are allowable over the cited references.

### CONCLUSION

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

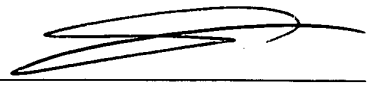
If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 624-1250 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

Respectfully submitted,

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